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Committee on Economic, Social and Cultural Rights

Sixty-fourth session

Summary record (partial)* of the 48th meeting**
Held at the Palais des Nations, Geneva, on Friday, 5 October 2018, at 3 p.m.

Chair: Ms. Bras Gomes

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* No summary record was prepared for the rest of the meeting.
** No summary record was issued for the 47th meeting.

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The meeting was called to order at 3.10 p.m.

Miscellaneous matters

Informal meeting with States

1. **The Chair** said that the meeting provided an important opportunity for the Committee to brief States parties on its work and for States parties to share any concerns that they might have in that regard.

2. The Committee had examined two States parties, namely New Zealand and Spain, under the simplified reporting procedure, which it had begun using in 2017. After a successful pilot experience, it had decided to extend invitations to use the procedure to a larger pool of States, with due consideration given to its own capacity and that of the Office of the United Nations High Commissioner for Human Rights. Precedence had been given to the States parties with the longest reporting histories with the Committee, as it had been felt that doing so would be conducive to more focused interactive dialogues. Later that month, the pre-sessional working group would adopt lists of issues prior to reporting for Belarus, Belgium, Norway and Ukraine, and it was hoped that, in 2019, lists would be adopted for Austria, Chile, Finland, Italy and Mongolia.

3. On 9 October 2018, the Committee would hold a day of general discussion on a draft general comment on article 15 of the Covenant, on the right to enjoy the benefits of scientific progress and its applications and other provisions of article 15 on the relationship between science and economic, social and cultural rights. The discussion, which would be facilitated by a concept paper and a guidance note prepared by Mr. Mancisidor de la Fuente and Mr. Uprimny, would serve as the first opportunity for States parties to provide input on the draft.

4. **Mr. Mancisidor de la Fuente** said that the day would be structured around four panel discussions: the first on the normative content of the right to enjoy the benefits of scientific progress and its applications; the second on the relationship between that right and other rights enshrined in the Covenant; the third on the necessary limitations to the enjoyment of the right; and the fourth on States parties' obligations pursuant to article 15 (2) to (4). In total, 17 experts had been invited to speak, including university professors and representatives of non-governmental organizations and the United Nations Educational, Scientific and Cultural Organization. The exercise would be extraordinarily useful in better defining the normative content of article 15, on which States parties had asked for guidance in the past. All stakeholders had a lot to learn, and the Committee was eager to hear the opinions and positions of States parties.

5. **The Chair** said that the Committee remained engaged in the process leading up to the 2020 review of the treaty body system and had participated in the sharing of information at the most recent meeting of the Chairs of the human rights treaty bodies. There were many ideas under discussion, but only one objective, which was to strengthen the protection of human rights. The previous week, the Geneva Academy of International Humanitarian Law and Human Rights had presented to the Committee its model for a global review calendar. The Committee would examine the proposal in greater depth and continue to look at ways of harmonizing working methods and reducing reporting fatigue, among other issues.

6. On 8 October 2018, the Committee would be hosting a joint meeting with the European Committee of Social Rights of the Council of Europe, which had a very similar mandate to its own. The meeting, which would be the first of its kind, was intended to give effect to Human Rights Council resolutions on cooperation with regional mechanisms.

7. At its current session, the Committee had considered the long-overdue initial reports of Cabo Verde and Mali. It was hoped that, with the capacity-building support of United Nations country teams, other States parties whose reports were overdue for various reasons, including conflict, would follow suit. During the dialogue with Cabo Verde, interpretation had been provided from, but not into, Portuguese.

8. **Mr. Uprimny** (Chair-Coordinator of the Working Group on Communications) said that the Committee currently had 57 registered communications, of which 14 had been

declared inadmissible, in many cases because the alleged facts had occurred prior to the entry into force of the Optional Protocol for the State party in question. Of the remaining communications, 2 had been discontinued, 37 were pending and 4 had been determined on the merits. The Committee had found a violation of the Covenant in three cases and no violation in the other. Thanks to the work that it had undertaken, the Committee had been able to clarify aspects of the substantive content of the Covenant and issues such as the exhaustion of domestic remedies as a prerequisite for admissibility, the level of substantiation required for communications, whether its recommendations should be general or specific and whether third parties could participate in the examination of communications.

9. The number of registered communications had increased significantly since the same time the previous year, when there had been only 22. As a result, the Committee's workload had grown substantially, yet the resources available to it had not. In addition, there had been staffing instability within the Petitions Unit at the Office of the United Nations High Commissioner for Human Rights, and the Working Group on Communications had been forced to meet outside of the Committee's normal working hours. In the circumstances, it was important for States parties to bolster the resources at the Committee's disposal in order to enable it to fulfil its mandate.

10. **The Chair** said that she wished to echo Mr. Uprimny's remarks regarding the need for additional resources. Having carried out a huge amount of work to clear its backlog of reports, the Committee did not want to accumulate a similar backlog of communications, especially as communications needed to be dealt with in a reasonable period of time.

11. **Mr. Júlíusson** (Iceland) said that the introduction of the simplified reporting procedure had been a very positive step that would make it easier for small States parties in particular to meet their reporting obligations and for the Committee to direct its dialogues with State party delegations.

12. While it was important for the Committee to remain engaged in the process leading up to the 2020 review of the treaty body system, it should be noted that States had not yet decided what form that review would take, and ongoing efforts to harmonize working methods should not be compromised.

13. He would be interested to know how the Committee viewed itself in relation to the other human rights treaty bodies, bearing in mind that, unlike those bodies, it had been established under a resolution of the Economic and Social Council, and its members were elected by members of the Council. Iceland, for its part, considered all the human rights treaty bodies to be on an equal footing, regardless of the manner in which members were elected.

14. **Mr. Pinto da Silva** (Portugal) said that he wished to congratulate the Committee on its practice of engaging directly with States. He also wished to thank the outgoing Chair, Ms. Maria Virginia Bras Gomes, for her hard work and dedication, and for the energy that she had put into the promotion of economic, social and cultural rights.

15. **The Chair** said that she wished to thank the States parties for all their cooperation during her 14 years with the Committee. As she had often said, States parties and the Committee might have different roles to play, and it was therefore normal for them to differ in opinion on occasion, but ultimately they were both seeking to achieve the same objective.

16. **Ms. Liebenberg** said that the Committee had adopted a follow-up procedure on concluding observations in 2017 that required States parties to report within 18 months on the steps taken in respect of three urgent issues highlighted by the Committee. In the interest of harmonizing with other treaty bodies, the Committee had now moved to a 24-month follow-up period. Insofar as the election of Committee members by the Economic and Social Council did not involve all States parties to the Covenant, the procedure was an anomaly in the treaty body system and did call for discussion, though it was not an issue that the Committee had considered in any great detail.

17. **Mr. Abdel-Moneim**, referring to the review of the treaty body system due in 2020, said that there was a need to tread carefully and that, beyond procedural, financial and

personnel issues, the essential consideration was that all stakeholders were committed to the cause of human rights. He did not believe that the different way in which members of the Committee on Economic. Social and Cultural Rights were elected had any adverse effect; what mattered most was whether the Committee was fulfilling its mandate. Although it was true that different treaty bodies sometimes made the same recommendations, that did not necessarily entail additional obligations for the State party concerned. Based on the Committee's experience at the current session, which had included reviews of States parties that were classed as least developed or developing countries, there was no sign of reporting fatigue. What made for a high quality, constructive dialogue was a State party's approach to economic, social and cultural rights and the level of detail in the report.

18. **Ms. Shin**, recalling that General Assembly resolution 68/268 contained a recommendation that the Economic and Social Council should consider replacing the existing procedure for the election of experts to the Committee on Economic, Social and Cultural Rights, asked whether any initiative had been taken to that end. She also asked what efforts States parties were making to streamline and harmonize their own reporting procedures.

19. **Mr. Kedzia** said that he welcomed the recommendation in resolution 68/268 and was concerned that the Economic and Social Council had yet to act on it. It was not only a matter of equal treatment for all treaty bodies; the election of committee members by the States parties to the Covenant would also ensure greater competitiveness. It was important to note that switching to the simplified reporting procedure meant shifting the responsibility for the reporting process almost entirely onto the Committee, which would have significant implications in terms of research capacity, primarily for the Office of the United Nations High Commissioner for Human Rights. In other words, additional resources were absolutely necessary.

20. **The Chair** said that the Committee did not have an official position on the matter of the election of members by the Economic and Social Council. Moreover, it was unclear whether or not changing the mode of elections would require amending the Covenant. The situation had not made any difference to her work, and she did not feel that she had been treated differently from members of other treaty bodies. While she doubted it was an issue anyone was aware of aside from the States parties, it did arise periodically and should probably be given some thought by the Committee. She was pleased to hear that the form of the 2020 review remained undecided, as that meant that the Committee, as a key stakeholder, could still contribute to the discussion. The Committee had been making an honest effort to harmonize procedures with the other treaty bodies, but it was worth recalling that harmonization was a means to an end, not an end in itself.

The discussion covered in the summary record ended at 4 p.m.